

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**FISCAL NOTE**

**HB 233 – SB 562**

April 22, 2021

**SUMMARY OF BILL:** Removes the requirement that individuals must possess a marriage license prior to a marriage ceremony. Requires the Attorney General to defend local officials in actions brought against them for issuance or failure to issue a marriage license or if represented by private counsel, with defense costs being reimbursed by the state.

**ESTIMATED FISCAL IMPACT:**

**Decrease State Revenue –**

**\$24,200/FY21-22 and Subsequent Years/General Fund**  
**\$3,800/FY21-22 and Subsequent Years/AOC**  
**\$8,100/FY21-22 and Subsequent Years/DCS**  
**\$4,000/FY21-22 and Subsequent Years/OCJP**  
**\$11,000/FY21-22 and Subsequent Years/TDC**  
**\$2,200/FY21-22 and Subsequent Years/DOE**

**Decrease Local Revenue – Up to \$16,100/FY21-22 and Subsequent Years\***

**Other Fiscal Impact – For each instance of reimbursement of defense costs for local officials, it is estimated that an increase in state expenditures will exceed \$10,000.**

**There will be a loss in revenue in FY21-22 and subsequent years to Tennessee Court Appointed Special Advocates Association and the Tennessee chapter of the National Association of Social Workers, which are private and not state nor local government entities, estimated to be \$3,228.**

**Assumptions:**

- According to the Department of Health, from 2017 to 2019 there were 161,174 marriage certificates filed for an average of 53,725 (161,174 / 3) annually. This figure is estimated to remain relatively constant.
- Pursuant to § 67-4-411(a), the county clerk is required to collect and forward to the Department of Revenue a tax of \$15 for each marriage license issued.
- Based on additional information from the Department of Revenue's website, the total state taxes and fees on marriage licenses is \$82.50; however, \$60 of the fee is waived with proof of pre-marital course completion. The \$60 portion when collected is distributed to various state agencies and private organizations.

- It is assumed half of all marriage licenses issued have been waived of the \$60 fee.
- Pursuant to Tenn. Code Ann. § 8-21-701(1), court clerks are entitled to a \$10 fee for the issuances of a marriage license.
- Locals are authorized to charge a \$5 privilege tax, per Tenn. Code Ann. § 67-4-505, to be used for schools; therefore, the taxes and fees charged by locals is \$15 (\$10 + \$5). For the purposes of this analysis, it is assumed all counties charge the tax and fees and no other fees.
- It is unknown how many couples will forego a marriage license. For the purposes of this analysis, it is assumed 2 percent, or 1,075 ( $53,725 \times 2\%$ ) each year.
- Removing the requirement of a marriage license will result in a mandatory recurring decrease in local revenue up to \$16,125 ( $1,075 \times \$15$ ) beginning in FY21-22.
- There will be a decrease in state revenue to the General Fund of \$24,188 [ $1,075 \times (\$82.50 - \$60)$ ] in FY21-22 and subsequent years.
- It is estimated that approximately 50 percent of couples are required to pay the \$60 fee.
- There will further be a reduction of the \$60 fee, pursuant under § 36-6-413. The breakdown of the fee is as follows:
  - \$7.00 to the Administrative Office of the Courts (AOC) for the specific purpose of funding the parenting plan requirements;
  - \$15 to the Department of Children's Services (DCS) for child abuse prevention services;
  - \$7.50 to the Office of Criminal Justice Programs (OCJP) for domestic violence services;
  - \$20.50 to the Tennessee Disability Coalition (TDC) to build the capacity of the statewide disability community to offer services to families and children with disabilities;
  - \$3.00 to the Tennessee Court Appointed Special Advocates Association (CASA);
  - \$4.00 to the Department of Education (DOE) for the sole purpose of making grants to Tennessee Alliance of Boys and Girls Clubs;
  - \$3.00 to the Tennessee chapter of the National Association of Social Workers (NASW) for education, information, publications and capacity building efforts focused on strengthening services and referral networks to families and children.
- The recurring decrease in state government revenue will be \$32,250 [ $(1,075 \times 50\%) \times \$60$ ] in FY21-22 and subsequent years.
- This would result in decrease in revenue of 538 ( $1,075 \times 50\%$ ) licenses each year as follows:
  - \$3,766 to AOC ( $\$7 \times 538$ );
  - \$8,070 to DCS ( $\$15 \times 538$ );
  - \$4,035 to OCJP ( $\$7.50 \times 538$ );
  - \$11,029 to TDC ( $\$20.50 \times 538$ );
  - \$1,614 to CASA ( $\$3 \times 538$ );
  - \$2,152 to DOE ( $\$4 \times 538$ ); and
  - \$1,614 to NASW ( $\$3 \times 538$ ).
- CASA and NASW are private organizations. The total lost revenue to these private organizations will be \$3,228 ( $\$1,614 + \$1,614$ ) in FY21-22 and subsequent years.

- County clerks are responsible for numerous duties including acting as clerk of the county legislative body, issuing motor vehicle titles and registrations, collecting privilege taxes, issuing marriage licenses, beer permits, and pawnbroker licenses. Due to the extent of duties currently performed by the county clerk, it is reasonably assumed that removal of marriage license issuance from such duties will not result in a decrease in staffing requirements or office expenditures; therefore, any decrease in local expenditures is considered not significant.
- This analysis assumes local officials will be represented by private counsel in actions brought against the issuance or failure to issue marriage license. While reimbursement will vary case to case, any reimbursement provided is reasonably estimated to result in an increase in state expenditures exceeding \$10,000.

*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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